

REMARKS

In the Office Action¹, the Examiner objected to claims 17 and 20 for informalities; rejected claims 5, 15, and 22 under 35 U.S.C. § 102(b) as being anticipated by *Hagiwara* (JP 2001-274367); and allowed claims 4, 7-11, 14, 16, 18, 19, and 21. Applicant thanks the Examiner for allowing claims 4, 7-11, 14, 16, 18, 19, and 21.

Claims 1-3, 6, 12, and 13 were previously cancelled. Thus, claims 4, 5, 7-11, and 14-22 remain pending.

Applicant respectfully traverses the objection to claims 17 and 20. The Examiner stated that the phrase “making a side wall spacer on a surface of said isolating filler in a side wall of said floating gate electrodes” in claim 17 is incorrect, because “the spacer is not in the sidewall of the floating gate” (Office Action, p. 2). However, Applicant’s specification discloses “forming side wall spacers 59S on sides of the floating gate electrodes 5.” Specification, page 17, lines 20-21. Accordingly, claim 17 is consistent with the specification and Applicant respectfully requests the Examiner to withdraw the objection to claims 17 and 20.

Applicant respectfully traverses the rejection of claims 5, 15, and 22 under 35 U.S.C. § 102(b) as being anticipated by *Hagiwara*. In order to properly establish that *Hagiwara* anticipates Applicant’s claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See

¹ The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Hagiwara does not disclose each and every element of Applicant's claimed invention. Specifically, *Hagiwara* does not disclose, at least, "second trenches being in the shape of a U," (emphasis added), as recited in claim 5, and similarly recited in claim 15. Instead, *Hagiwara* discloses trenches (Fig. 29) in the shape of a flask, which does not constitute the shape of a U. Therefore, *Hagiwara* does not disclose, at least, "second trenches being in the shape of a U," (emphasis added), as recited in claim 5, and similarly recited in claim 15.

For at least the above reason, *Hagiwara* does not anticipate independent claims 5 and 15. Independent claims 5 and 15 are therefore allowable, and dependent claim 22 is also allowable at least by virtue of its dependence from independent claim 5. Applicant respectfully requests the withdrawal of the rejection of claims 5, 15, and 22 under 35 U.S.C. § 102.

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 5, 15, 17, 19, and 22, and the timely allowance of the claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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